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January 10, 2025

VIA ECF

Honorable Steven L. Tiscione, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: AutoExpo Ent. Inc., et al. v. Omid Elyahou et al.
Case No.: 2:23-cv-09249 (OEM) (ST)

Dear Judge Tiscione:

We represent Plaintiff AutoExpo Ent. Inc. (“AutoExpo”) and the other plaintiffs (collectively, “Plaintiffs”) in the above-action. Defendants Omid Elyahou, SimpSocial, LLC and United Citizens Warranty LLC (collectively the “Elyahou Defendants”) and Defendants Avi Eitan, Fifty Seven Consulting Corp. d/b/a Certified Auto Group a/k/a Certified Performance Motors and Fazeeda Kassim (collectively the “Certified Defendants”) made separate motions to dismiss AutoExpo’s claims under the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. (“ERISA”), on behalf of AutoExpo’s 401K plan (the “Plan”) and its participants, as alleged in the Amended Complaint, seeking, *inter alia*, injunctive and equitable relief to undo an improper \$521,000 transaction made by Elyahou, as Plan Trustee, in November 2022 in contravention of the Plan and in breach of his fiduciary duties to the Plan.¹

Plaintiff AutoExpo writes to renew its request for a two-week extension for its time to submit its opposition to Defendants’ respective motions to dismiss the ERISA claims from January 10, 2025 to January 24, 2025, or such other date as the Court orders. We now have obtained the consent of Defendants’ for this application. Plaintiff AutoExpo previously sought this extension with the Court on January 8, 2025. That application was denied earlier today because it was Plaintiff AutoExpo’s second application and “was not on consent of all parties.”² The Court noted that it “is denying this application until the application fully complies with this Court’s Rules” (see Text Only Order dated January 10, 2025), which we interpreted to mean, until we obtained

¹ As this Court is aware, Defendants submitted a motion to dismiss the original Complaint July 1, 2024 (Dkt. 38-39). Besides adding a related party, the only substantive difference between the original Complaint (Dkt. 1) and the Amended Complaint (Dkt. 48) is the addition of the ERISA claims. Defendants’ current motion and AutoExpo’s opposition will supplement the original motion (Dkt. 38-39).

² At the time of its January 8, 2025 application, although AutoExpo sought consent of opposing counsel, it had not received any response. Therefore, that application was not on consent.

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Defendants' consent. We now have the consent of the Elyahou Defendants and the Certified Defendants for the extension.

We note that we have not made this application lightly. However, as stated in our January 8, 2025 letter, exigencies came up that require a brief extension. We thank the Court for its attention to this matter.

Respectfully submitted,

Michael C. Mulè

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cc: Counsel of Record